

**MINUTES OF THE
LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE**

Wednesday, November 15, 2006 – 2:00 p.m. – Room W020 House Building

Members Present:

Sen. D. Chris Buttars, Chair
Rep. DeMar "Bud" Bowman, Chair
Sen. Allen Christensen
Sen. Fred J. Fife
Rep. D. Gregg Buxton
Rep. Patricia W. Jones
Rep. David Litvack
Rep. Michael T. Morley
Rep. Curtis Oda
Rep. Paul Ray
Rep. Jennifer M. Seelig

Members Absent:

Sen. Mark B. Madsen
Rep. J. Stuart Adams
Rep. LaVar Christensen

Staff Present:

Mr. Stewart E. Smith, Policy Analyst/Special Projects Mgr.
Ms. Susan Creager Allred, Associate General Counsel
Ms. Wendy Bangerter, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair DeMar "Bud" Bowman called the meeting to order at 9:04 a.m. He noted the "Statutory Report -- Emergency Medical Services Committee" is included in the packet previously mailed to committee members.

MOTION: Rep. Litvack moved to approve the minutes of the October 18, 2006 meeting. The motion passed unanimously. Rep. Morley was absent for the vote.

2. Sex Offender Recidivism

Mr. Scott Carver, Director, UDC (Department of Corrections), and Dr. Larry Bench, Research Consultant, UDC, presented information to the Committee regarding sex offender recidivism in Utah. They reviewed a presentation from a study on recidivism of sex offenders, which showed that 83 percent of the offenders had no new criminal convictions during a 26-year follow-up period.

Committee discussion followed.

3. Public Safety Dispatchers Progress Report

Ms. Carol Groustra, Bureau Chief, Communications Bureau, Department of Public Safety, distributed and reviewed a chart showing the turnover of public safety dispatchers since 1978. She showed a video news clip from San Francisco explaining the city's dispatcher crisis. At the September 20, 2006 meeting, the Committee unanimously endorsed increasing the hourly compensation of public safety dispatchers employed by the state by four steps. Ms. Groustra stated that the 4-step increase will help attract quality employees and a career ladder program should help to retain them.

The Committee discussed the critical need to substantially increase the compensation for public safety dispatchers.

MOTION: Rep. Ray moved to reinforce the Committee's previously stated support for the proposed 4-step compensation increase for public safety dispatchers. The motion passed unanimously. Sen. Buttars and Rep. Litvack were absent for the vote.

4. Draft Legislation - "Internet Sexual Predator Penalties"

Representative Ray explained 2007 General Session draft legislation, "Internet Sexual Predator Penalties." This bill would make an online enticement to commit any level of sexual offense a second-degree felony, and would increase any subsequent offense to a first-degree felony. Rep. Ray reviewed the possible fiscal impact of the bill.

MOTION: Rep. Ray moved to adopt "Internet Sexual Predator Penalties" as a committee bill. The motion passed unanimously. Sen. Buttars and Rep. Litvack were absent for the vote.

5. Draft Legislation - "Driver License or Identification Card Requirement for Sex Offenders"

Representative Paul Ray explained 2007 General Session draft legislation, "Driver License or Identification Card Requirement for Sex Offenders." This bill requires that a person registered as a sex offender maintain a current identification card if the person does not have a valid Utah driver license. Rep. Ray explained that the bill will have no fiscal impact.

MOTION: Rep. Ray moved to adopt "Driver License or Identification Card Requirement for Sex Offenders" as a committee bill. The motion passed unanimously. Sen. Buttars and Rep. Litvack were absent for the vote.

6. Draft Legislation - "Organized Retail Theft"

Representative Paul Ray explained 2007 General Session draft legislation, "Organized Retail Theft." This bill includes the criminal offense of retail theft in the statutory definition of "a pattern of unlawful activity" and provides that persons found guilty of a pattern of unlawful activity may be ordered to pay restitution for property obtained. He noted that the charges can be aggregated. There is no fiscal impact anticipated.

MOTION: Rep. Ray moved to adopt "Organized Retail Theft" as a committee bill. The motion passed unanimously. Sen. Buttars and Rep. Litvack were absent for the vote.

7. Draft Legislation - "Mortgage Fraud"

Representative Paul Ray explained 2007 General Session draft legislation, "Mortgage Fraud." He emphasized the need to enforce what is currently in Utah law by creating a crime of real estate fraud and including this crime under "The Pattern of Unlawful Activity Act" and establishing a real estate fraud prosecutor and two investigators. He reviewed the fiscal impact and where that funding would come from.

Mr. John Norman, Utah Mortgage Lenders Association, spoke in support of the bill.

Mr. Ernest Knutsen, MBA (Mortgage Bankers Association) Fraud and Ethics Subcommittee, National MBA, spoke in support of the bill.

Rep. Ray declared a conflict because he works in the mortgage industry.

MOTION: Sen. Christensen moved to adopt "Mortgage Fraud" as a committee bill. The motion passed unanimously. Sen. Buttars and Rep. Litvack were absent for the vote.

8. Draft Legislation - "Concealed Weapons Fees Amendments"

Representative Curtis Oda presented 2007 General Session draft legislation, "Concealed Weapons Fees Amendments." This bill creates a dedicated credit to cover costs incurred by the Criminal Investigations and Technical Services Division of the Department of Public Safety in issuing concealed weapons permits. This concept was unanimously recommended by the Committee at the September 20, 2006 meeting.

Mr. Ed McConkie, Chief, BCI (Bureau of Criminal Identification) spoke in support of the bill and encouraged the Committee's endorsement. He said that this change would help the BCI increase their capacity to efficiently operate its growing program.

MOTION: Rep. Jones moved to adopt "Concealed Weapons Fees Amendments" as a committee bill.

SUBSTITUTE MOTION: Sen. Christensen moved to adopt "Concealed Weapons Fees Amendments" as a committee bill and include a requirement for an annual report to the Legislature. The motion passed unanimously. Sen. Buttars, Rep. Litvack, and Rep. Ray were absent for the vote.

9. Juveniles and the "Adam Walsh Child Protection and Safety Act of 2006"

Mr. Dan Maldonado, Director, Division of Juvenile Justice Services, gave an update on the survey the Division is conducting of how the federal "Adam Walsh Child Protection and Safety Act of 2006" will affect Utah's juvenile justice laws.

10. Federal Sex Offender Legislation - State Compliance

Representative Paul Ray explained the federal sex offender legislation, "Adam Walsh Child Protection And Safety Act of 2006" and how draft legislation, "Sex Offender Law Amendments," that will be presented to the Utah Legislature during the 2007 General Session, will make the necessary changes to bring Utah law into compliance with the requirements of the federal law. He stated the fiscal cost to come into compliance with federal legislation would be \$1.5 million dollars. He emphasized that the Utah sex offender registry would also receive some needed new funding.

11. Issues Relating to Child Custody Evaluators

Ms. Amy Jensen, Director, Safe Havens Supervised Visitation Center, explained the center's efforts to seek solutions to issues relating to court-appointed custody evaluations, particularly in cases where domestic violence is a significant factor. She gave a power-point presentation showing a growing trend in courts to award custody of children to the offenders and how the offenders are able to accomplish this. She explained the center's determination that custody evaluators have significant power in the process, are not held accountable by any regulations, and are not highly trained. As a result, the evaluators are not effective in providing the appropriate services for children.

Ms. Kathy Sawyer, a mother and survivor of domestic violence, told her story of leaving an abusive marriage and how the evaluators determined her son's custody should be given to the offender in her case. Her frustration with the evaluators' reports and the lack of accountability for them to make their determinations of custody prompted her request that evaluators be required to be more thoroughly trained in domestic violence and a cap put on what they can charge for their evaluations.

Ms. Gina Painter, licensed clinical social worker, explained there are training requirements for evaluators, but they are not educated in matters of domestic violence and children's issues.

Committee discussion followed.

Sen. Buttars recommended that the presenters put together a proposal to present to the Legislature.

Ms. Sondra Lucas, Executive Director, Utah Chapter, Citizens Commission on Human Rights, expressed concern that because custody evaluators are considered experts in the court setting and because there is very little time spent with the family by the custody evaluator, a good determination is difficult to make.

Mr. Rick Schwermer, Assistant Court Administrator, explained there are rules that determine how a judge chooses an evaluator with experience and skills in the area being considered. The judge also assigns responsibility for the evaluator's payment.

Ms. Sawyer explained that she found the rules were not being followed, but there was no place where either she or her son could voice their complaints.

12. Other Items/Adjourn

Rep. Bowman expressed appreciation for the committee members and their efforts during the interim.

MOTION: Rep. Morley moved to adjourn the meeting. The motion passed unanimously. Rep. Jones was absent for the vote.

Chair Bowman adjourned the meeting at 11:42 a.m.